

MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairman Townsend at 10:02 a.m. on Monday, April 16, 2001, in the Wallace State Office Building, Des Moines, Iowa.

MEMBERS PRESENT

James Braun
Lisa Davis Cook
Darrell Hanson
Rozanne King
Kathryn Murphy, Vice-Chair
Terrance Townsend, Chair
Rita Venner, Secretary

MEMBERS ABSENT

Randal Giannetto
Gary Priebe called to say he would be unable to attend.

ADOPTION OF AGENDA

The following adjustments were made to the agenda:

Item 11 was scheduled to be heard at 1:00 p.m.

Motion was made by Rita Venner to approve the agenda as amended. Seconded by Rozanne King. Motion carried unanimously.

APPROVED AS AMENDED

APPROVAL OF MINUTES

Motion was made by Rozanne King to approve the March 19, 2001 minutes as presented. Seconded by James Braun. Motion carried unanimously.

APPROVED AS PRESENTED

DIRECTOR'S REPORT

Director Jeff Vonk said the Senate had passed a resolution to defer the vote on his confirmation until sometime before the end of their session, therefore he will continue to spend time with senators who may have questions about his confirmation. In the past month he has spent a great deal of time meeting with the senators and various interest groups and getting to know the divisions and bureaus within the department. He said we are currently in the middle of a budget debate, the Governor pulled together a proposal to the Legislature dealing with a 6% across the board cut, the Legislature has proposed a different approach. There is a sizable difference between the two proposals. He said the current proposal by the Legislature, if enacted, would have a very serious effect on the Departments ability to do business and to deliver our programs especially in the area of the Parks and Environmental Protection Divisions. The Department is currently in the process of describing the potential impacts of those budget proposals. He invited Commissioners to contact him if they had any questions about those impacts.

SAFE SCHOOLS STATEWIDE PROGRAM – CONTRACT RECOMMENDATION

Liz Christiansen, Division Administrator, Waste Management Assistance Division, presented the following item.

The Department of Natural Resources is requesting approval to enter into a contract with JaKel, Inc. as Phase I of a two-phase project that provides training to science teachers and administrators for each school in Iowa's thirteen Area Education Agencies. The training will cover such topics as:

- Federal and state laws governing hazardous materials in schools;
- Liability regarding hazardous materials in schools;
- Hazardous chemical management (storage, purchasing, inventory, and disposal); and
- Use of the *Total Science Safety System* **CD-ROM** that will be provided to each school.

The project award will not exceed \$60,000.

BACKGROUND

The Department receives regular requests for hazardous waste management assistance by schools across Iowa. Schools are home to hundreds of pounds of old and unwanted hazardous chemicals including explosives, radioactives, acute toxins and extreme reactives.

Last year the Department conducted a pilot project in six schools within the Grant Wood Area Education Agency (AEA). The success of this pilot project, which removed nearly 10,000 pounds of hazardous materials for safe disposal, is the basis for the proposed Safe Schools Statewide Program, Phase I and Phase II. The Grant Wood AEA pilot project found a general lack of knowledge on the part of schools regarding current regulatory requirements and liability issues associated with hazardous chemicals. It also discovered that the extent of unwanted and unstable chemicals in schools was greater than envisioned prior to the project. In many cases chemicals are stored in unmarked containers and next to incompatible chemicals. Most schools have chemicals that were accumulated over several decades. Proper purchasing, storage, inventory, and disposal of hazardous chemicals are not part of the college curriculum for individuals who will be entering the teaching profession.

It is anticipated the Department will present Phase II of the Safe Schools Statewide Program at the May Commission meeting. Phase II will provide for on-site assessments of a minimum of twenty Iowa schools to identify highly hazardous materials including potential impact explosives, radioactive materials, and DEA controlled substances. Identified materials will be removed from the schools for proper disposal. Individual training for each school will emphasize best hazardous chemical management practices and provide a hazardous chemical inventory and management software program as a means for eliminating future build-up of old and unwanted hazardous chemicals. Schools participating in Phase II will be required to commit to attending and incorporating the training provided in Phase I of the Safe Schools Statewide Program described above.

Contractor Selection

The Department solicited proposals for delivery of the training and development of the software program. The unique qualifications necessary to provide these services resulted in two proposals being submitted to the Department (Pan-Educational Institute of Independence Missouri and JaKel, Inc. of Des Moines).

After reviewing each proposal, the review committee selected JaKel, Inc. as the most qualified to provide these services. The reasons for JaKel, Inc.'s selection include:

- ▶ Experience;
- ▶ Knowledge of current law and school liability;
- ▶ References; and
- ▶ Local project participants.

The contract will cover the period of May 2001 through January 2002.

At this time, the Department is requesting Commission approval to enter into a contract with JaKel, Inc. subject to satisfactory contract execution.

Liz Christiansen said this would be the first part of a two-part project that the Land Quality and Waste Management Division would like to undertake to address hazardous chemicals in our schools. She described the details of the first phase and said the Department expects to bring the second phase of the program to the Commission for a decision in May. This second phase will involve an assessment for 20 middle and high schools across the state.

Terry Townsend asked if colleges were going to begin teaching this same curriculum for future science teachers and administrators so that this would not be an on going concern.

Liz Christiansen said it is the goal of the Department to work with the colleges to promote the use of micro chemistry which is the use of very small amounts of chemical in bench tests and experiments and the use of less toxic materials. She said they have been in contact with the Department of Education in this effort as well.

Darrell Hanson asked what the CD-ROM included in this contract do.

Liz Christiansen said the CD-ROM is a reference and an inventory tool.

Rozanne King asked where the funding came from for this program.

Liz Christiansen said the funding comes from tonnage fees. She said after the sweep of funds her division had reprioritized where the remaining money would be spent and this project had remained on the top of the list.

Brief discussion followed.

Motion was made by Rozanne King to approve the contract as presented. Seconded by James Braun. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT APPROVAL – WASTE TIRE STOCKPILE ABATEMENT PROJECTS FOR 2001-2002

Liz Christiansen, Division Administrator, Waste Management Assistance Division, presented the following item.

Contract Overview

The Commission is requested to approve three (3) contracts with Greenman Technologies of Savage, Minnesota, for the dismantling of the following nuisance waste tire stockpile projects:

<u>Site</u>	<u>Number of Tires</u>	<u>Contract Value</u>
• Grell (Tire Chop) Stockpile, Ft. Dodge	2.25 million+ tires	\$2,215,575
• Freland Estate Stockpile, Marshall Co.	500,000 tires	\$1,175,000
• “Regional” smaller, stockpile sites in NW, NE, SE, and SW Iowa	630,000 tires	\$899,640

Within these projects, UT Tire Recyclers of Des Moines, Iowa will be a subcontractor assisting with the processing of a portion of the tires from the Grell and Freland projects, and on the SE and SW Iowa project areas.

These contracts implement the goal of Iowa Administrative Code Chapter 218, “Waste Tire Stockpile Abatement Program,” to abate waste tire stockpiles that pose a nuisance to the environment, or to public health and safety, through awarding of contracts by the department.

The Department issued a request for proposal (RFP) for these projects in February of 2001. A summary of the bidding requirements, submittal, review, and selection process is described below:

Bidding Notification and Response

The RFP was issued by the Department in February of 2001. Notification of the RFP availability was published as follows:

- Press release in national tire recycling trade publication “Scrap Tire News” – January 2000
- Public bid notices in major Iowa newspapers
- Bid sent to all Iowa-based, permitted and compliant tire processors

Eleven (11) potential bidders received RFP packages through the notification process. Bids were due by 4:00 p.m. on March 20th. Five (5) firms submitted bids for department consideration.

RFP Review and Selection Process

The RFP review and selection process was conducted with a 100 point evaluation scale: 40 possible points based on the price competitiveness of the bid, and 60 possible points determined from the bidders' qualifications, references, and evidence of valued-added end markets for all

tires to be processed through the project. Bidders submitted forms and responses to provide the review team with this information. At a minimum, the bidders must have provided the following for qualification and scoring consideration:

- Evidence of end markets
 - end-market description
 - contracts, purchase order and quantities (actual only)
 - approved, current beneficial use projects
- Contractor's cleanup plan
 - method for stockpile dismantling, loading, transport
 - method/equipment to be used for processing on or off site
 - estimated capacity for processing each month
- Experience of the contractor
 - related experience
 - similar contracts
 - references
 - defaults, if any

A review team composed of two Waste Management Assistance Division staff and an individual from the Department of Economic Development reviewed each of the proposals. Points were assigned for price competitiveness, and each reviewer's technical scores were averaged and added to the pricing points to arrive at the overall score for each bid. The bidder with the highest overall score from each project are recommended for contract award. Bid summaries and review scores for each project are listed as follows:

Grell Stockpile, Ft. Dodge

Four (4) bid responses were received for the Grell stockpile project. Two bidders, Greenman Technologies and Tri-Rinse, each received a total of 64 points in the review process for this project. However, Greenman Technologies has been recommended to receive the contract award, as the Tri-Rinse proposal failed to meet the criteria for evidence of end-markets as specified in the request for proposals.

Greenman Technologies also proposed to complete the cleanup in the shortest amount of time (one-year), based upon the estimated tonnage of tires at the site, whereas the RPF would allow up to a two-year period (May 1st, 2001 – April 30, 2003). It should be noted that the abatement program is slated to end after the end of fiscal year 2002 (June 30, 2002) and Greenman's planned schedule will allow the cleanup to be completed without additional concern for availability of funds after the fiscal 'sunset' date. Also, with community concerns on solving the problem at this site, the Greenman proposal provided a more effective and efficient method to clean up the Grell site.

The average bid price among the proposals was \$106.93. Summaries of all the bids and scoring for the Grell project are listed below.

GRELL STOCKPILE BID SUMMARY

Bidder	Price Per Ton	Method of Processing	End-Market	SCORE					
				Technical Reviewers					
				#1	#2	#3	Avg.	+Price Points	Total Score
Champlin Tire Recycling Concordia, KS	\$109.36	Process on site	General letter of acceptance – Auburndale Recycling	50	34	34	39.3	0	39.3
Greenman Technologies Savage, MN	\$98.47	Haul whole off-site, shred at Savage, MN	Contracts and purchase orders for TDF to Big Stone / NSP	55	49	58	54	10	64
Tire-Environmental Muscatine, IA	\$155.00	Haul whole off-site, shred at Muscatine, IA	General letter of acceptance – Auburndale Recycling	12	12	22	15.3	0	15.3
Tri-Rinse St. Louis, MO	\$64.89	Process on site	Proposed landfill leachate project	35	20	17	24	40	64

Freland Estate, Marshall Co.

Only two proposals were received for this project located on a farmstead in Marshall County. Over 500,000 tires are contained within ravines and tree lines on this family estate. Greenman Technologies received the highest review score, 82.3 points compared to 63 points for the second proposal received. Strength of markets and experience in handling the difficulties of working with tire removal from ravines were highlights of Greenman's proposal. The clean-up period allowed through the contract is May 1st, 2001– June 30, 2002. The bid summary for the Freland project is as follows:

FRELAND STOCKPILE BID SUMMARY

Bidder	Price Per Ton	Method of Processing	End-Market	SCORE					
				Technical Reviewers					
				#1	#2	#3	Avg.	+Price Points	Total Score
Central States Tire Recycling of Neb.	\$225.50	Bale tires on site	General reference to planned projects	34	16	19	23	40	63
Greenman Technologies	\$235.00	Haul whole off-site, shred at Savage, MN	Contracts/purchase orders for TDF to Big Stone / NSP	55	44	54	51.3	31	82.3

“Regional” RFP for NE, NW, SE, and SW Iowa

The Department has cataloged a number of ‘smaller’ tire stockpile sites throughout the state, and bidders were offered an opportunity to bid on any one or all of four statewide regions where these tire piles are located. In total, 43 of the sites contain a total of 630,000 tires, with sites containing anywhere from 500 to 75,000 tires. Clean-up period will be May 1st, 2001 through June 30, 2002.

Through the RFP process three bidders submitted proposals to cleanup these remaining stockpiles in regions they elected to bid upon, as follows:

- Central States Tire Recycling of Nebraska - NW, NE, and SW Iowa
- Greenman Technologies of Minnesota - NW, NE, SW, and SE Iowa
- Tire-Environmental, Muscatine, IA – SE Iowa

Greenman Technologies received the highest overall score within each of the four regions that they submitted a proposal for. Within their bid, they have proposed using UT Tire Recyclers of Des Moines, Iowa to assist with the loading, hauling, and processing of tires specifically in the SE and SW Iowa regions. They have proposed to complete work concurrently in all four regions of the state, with this combination of coordination between Greenman Technologies and UT Tire as a subcontractor these smaller stockpile sites can be effectively and efficiently removed.

Bids summaries and review scores for each of the four regions are listed below and on the following pages:

BID SUMMARIES FOR NE, NW, SW, and SE IOWA SITES

NE IOWA Sites									
Bidder	Avg. Price Per Ton	Method of Processing	End-Market	SCORE					
				Technical Reviewers				+Price Points	Total Score
				#1	#2	#3	Avg.		
Central States Tire Recycling of Neb.	\$154.00	Bale tires on site	General reference to planned projects	24	15	16	18.3	27	45.3
Greenman Technologies	\$140.60	Haul whole off-site, shred at Savage, MN	Contracts/purchase orders for TDF to Big Stone / NSP	52	44	57	51	40	91.0

NW IOWA Sites

Bidder	Avg. Price Per Ton	Method of Processing	End-Market	SCORE					
				Technical Reviewers				+Price Points	Total Score
				#1	#2	#3	Avg.		
Central States Tire Recycling of Neb.	\$131.00	Bale tires on site	General reference to planned projects	24	15	16	18.3	40	58.3
Greenman Technologies	\$140.60	Haul whole off-site, shred at Savage, MN	Contracts/purchase orders for TDF to Big Stone / NSP	52	44	57	51	30	81.0

SW IOWA Sites									
Bidder	Avg. Price Per Ton	Method of Processing	End-Market	SCORE					
				Technical Reviewers				+Price Points	Total Score
				#1	#2	#3	Avg.		
Central States Tire Recycling of Neb.	\$131.00	Bale tires on site	General reference to planned projects	24	15	16	18.3	40	58.3
Greenman Technologies	\$145.00	Haul whole off-site, shred at Savage, MN	Contracts/purchase orders for TDF to Big Stone / NSP	52	44	57	51	26	77.0

SE IOWA Sites									
Bidder	Avg. Price Per Ton	Method of Processing	End-Market	SCORE					
				Technical Reviewers				+Price Points	Total Score
				#1	#2	#3	Avg.		
Greenman Technologies	\$140.60	Haul whole off-site, shred at Savage, MN	Contracts/purchase orders for TDF to Big Stone / NSP	52	44	57	51	40	91.0
Tire-Environmental Services	\$153.80	Haul back to Muscatine and shred	General letters of acceptance from WI	31	12	14	13	31	44.0

Summary of Recommended Bidders' Capabilities and Clean-up Plan

Each of Greenman's proposals state that they have the capabilities, planning, and organization to conduct work concurrently at both the Grell and Freland stockpiles, while also working in each of the four regions on the smaller stockpile removals.

Highlights of Greenman's capabilities to complete this work timely and within the scope of the RFP and contract requirements include the following:

- Annual process capacity of over 10.3 million tires at the Savage, MN facility
- Additional process capacity of 2.0+ tires at UT Tire Recyclers, Des Moines
- Markets are actual and secure, through contracts and purchase orders for tire-derived fuel
- All tires will be loaded and hauled off-site, and processed at Greenman or UT's facilities
- Extensive experience in tire pile cleanups through the Midwest with similar conditions
- Completion of five (5) contracts through the IDNR, with over 3.6 million tires removed
- Ability to complete projects concurrently

The commission's review and potential approval of these contracts will allow the Department to mitigate the largest and most controversial remaining stockpile in Iowa, as well as cleaning up the remaining known stockpiles statewide. The recommended contractor has the capability to complete the work in an economical and timely manner.

Liz Christiansen explained the item and said that Mel Pins would be addressing the Commission about the award of the contracts. She asked the Commissioners to keep in mind that the Waste Tire Stockpile Abatement Program is due to sunset in June of 2002 as they consider the award of contracts. This allows a limited time to clean up the final projects.

Mel Pins said the good news is the clean up of the Ervin Pile in Otho, Iowa is finished, the last load of tires will leave the site on Tuesday, April 17, which is 90 days ahead of schedule. He thanked the general contractor Greenman Technologies of Minnesota and the subcontractor U T Tire for accomplishing this and presented a video presentation on the Ervin Stockpile. He said to date over 4.5 million tires have been cleaned up from 30 sites. Currently there are three projects left to be cleaned up, the Grell Stockpile in Fort Dodge, Iowa, which is the largest remaining stockpile in Iowa, the Freland Estate in Marshall County, and a number of remaining smaller stockpile sites in Iowa that the Department has grouped together in different regions. He said the recommended recipient of the remaining contracts is Greenman Technologies of Minnesota with U T Tire Recyclers of Des Moines assisting on a portion of the work at the Grell and Freland sites. UT Tire Recyclers would also work on the SE and SW Iowa project areas under Greenman's general oversight. He described the request for proposal (RFP) process and said the Department received 11 different proposals, five of which submitted actual bids. He described the review process for those bids, which is done by a three-person review team. This team consists of two people from the Department of Natural Resources and one person from the Department of Economic Development. He described the criteria for selection and reviewed the bids for the individual jobs.

Brief discussion followed.

Bill Miner, President of Central States Tire Recycling of Nebraska said described the history of his business to the Commission. He said his company regularly collects tires through out much of Nebraska and Western Iowa. Their regular Iowa clients include City of Sioux City, the City of Aurelia, the City of Cherokee, the Woodbury and Plymouth County landfill, and well over 100 private clients. Their primary product is the Enviro Block, which is used for erosion control, soil stabilization and drainage enhancement. Central States submitted bids on three of the four

quadrants and on the Freland cleanup site and was low bidder on three of the four bids. He said he felt that the reviewers did not have the opportunity to consider some of the facts before making their decision and asked the Commission to consider them before awarding the contracts. He outlined those points and said finally there is the important fact that the contractor that has been selected will cost several hundred thousand dollars more.

Brief discussion followed.

James Braun asked how likely is it that these tires will need to be cleaned up again in the future.

Mr. Miner if what the Commission wanted was to have the tires disappear, then alternative methods may be more desirable, but he believes since there is a current application for this product which is beneficial and environmentally correct it should be utilized. He said his answer is to the question of what happens when is, if a mechanism is provided for an ongoing industry that utilizes these tires, the fact that at some point that beneficial use may have to be reconstructed should not be a reason for not implementing the beneficial use at that time.

Liz Christiansen thanked Mr. Miner for presenting his information to the Commission. She said according to the Administrative Rules tire bales are considered solid waste. That is why so much emphasis is put on the market of this material with regard to the award of the contract. This Commission has approved cleanup projects where tire bales have been proposed for a market and the Department has had to pay again to go in and cleanup the tire bales.

Rita Venner asked if the State had ever used Central States for any cleanup project.

Mel Pins said at this point the State had not, he said they will approve uses for tire bales providing that all requirements have been met. The issue is really not about Mr. Miner's qualifications, what they were looking at in his proposal was his experience, his markets, and his plan of action.

Motion was made by Rozanne King to approve the contracts as presented. Seconded by Kathryn Murphy. Motion carried unanimously

APPROVED AS PRESENTED

PUBLIC PARTICIPATION

Tim Bierman from the Pork Producers of Iowa said he would like thank the Department for the denial for the petition for rulemaking for air quality regulations of animal feeding operations and while he agreed with most of the reasons that DNR stated he would like to add a few thoughts for the Commission's consideration. He said after raising hogs in Iowa for over fourteen years he does not think it is advisable to try to regulate on odor. This requires a substantial State investment in new equipment that the DNR will have no expectation of obtaining nor will they have any expectation of obtaining funding for staffing for this program. He handed out a report from the Department of Health states "there is no conclusive evidence to indicate that exposure to odors from lives stock operations cause infectious disease for physical health hazards to residents not working on the facility." He said there seems to be a misunderstanding on the current law regulating air quality program concerning livestock operations. The Iowa Code sets the separation distances, which sets air quality regulations at the same time. He asked since the air quality requirements includes separation distances, will separation distances be reduced or eliminated when the DNR proposed air quality standards are met or exceeded.

NOTICE OF INTENDED ACTION: CHAPTER 567-IAC 118 REMOVAL AND DISPOSAL OF POLYCHLORINATED BIPHENYLS (PCBs) FROM APPLIANCES PRIOR TO PROCESSING

Liz Christiansen, Division Administrator, Waste Management Assistance Division, presented the following item.

The Commission is requested to approve a Notice of Intended Action to begin the formal rule making process on the attached proposed rule. Because of the extensive changes being proposed, it is the Department's intention to rescind the existing Chapter 118 and replace it with a new Chapter 118 entitled "Discarded Appliance Demanufacturing".

An advisory committee of 20 individuals representing various aspects of appliance de manufacturing and recycling participated in two committee meetings and provided valuable comments and assistance in drafting these proposed rules.

The title of the new chapter reflects the expanded scope of the proposed rule. Besides establishing a permit program for facilities that demanufacture discarded appliances, the rule provides specific operational requirements for the removal of environmentally unsafe materials from discarded appliances prior to being recycled. The existing rule only requires PCB capacitors to be removed from appliances and anyone removing PCB capacitors must be registered with the department. The registration program was very minimal and difficult to enforce. Also, the existing rule does not protect the environment from the releases of refrigerants and mercury during the recycling and shredding of discarded appliances.

The proposed rule will require all electrical parts containing PCBs, components containing mercury, and refrigerants to be removed from discarded appliances prior to recycling and final disposition. Materials removed from appliances must be properly stored and recycled or managed in accordance with applicable Federal regulations. It also requires demanufacturing facilities to report to the department annually and to renew their permit every three years.

(A copy of the Notice of Intended Action is available in the Department's Record Center)

Liz Christiansen briefed the Commission on the item.

Terry Townsend asked if the proposed rule regarding spill notification of both the Department and local law enforcement was in excess of the current law.

Jon Tack said under current hazardous condition notification it is required that the person notify both the Department and local police department or the office of the sheriff of the affected county within six hours.

Lengthy discussion followed

Motion was made by James Braun to approve the Notice of Intended Action. Seconded by Lisa Davis Cook. Motion carried unanimously

APPROVED AS PRESENTED

FINAL RULE – CHAPTER 93 – ONSITE WASTEWATER TREATMENT SYSTEM ASSISTANCE PROGRAM

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be asked to approve a final rule adopting a new Chapter 93, “Onsite Wastewater Treatment System Assistance Program.” The rule would establish a low interest loan program for improving and rehabilitating onsite wastewater systems (e.g., septic systems) that would be implemented through a linked deposit program with local financial institutions.

In June 2000, the Commission approved a Notice of Intended Action to establish a new Chapter 93, “Onsite Wastewater Treatment System Assistance Program.” As there were many questions regarding how the program would be carried out, the Environmental Protection Division continued to work with EPA and other interests in refining the NOIA before publication. The NOIA was published in September and hearings were held throughout the state in October to take comments on the proposed rules.

Due to questions regarding the statutory authority to carry out a revolving loan program for individual, on-site sewage treatment systems, the Attorney General’s office was contacted to provide informal advice on this issue. In brief, it was the view of the AG’s office that the Department did not have adequate statutory authority to establish a revolving loan fund for the onsite program. Legislation providing such authority was introduced in the 2001 session and at present the bill has passed the Senate and is awaiting House approval. The bill would take effect immediately once passed and signed.

Iowa Code Section 17A.4 requires that an agency either adopt or terminate a proposed rule within 180 days after the publication or the last date of oral presentations on the rule, whichever is later. The Commission meeting will be 179 days after the date of the last hearing (October 19, 2000) so final action can still be taken within the 180 day period (assuming the onsite legislation passes before that time).

Changes to the rule as published in the Notice of Intended Action are summarized in the preamble to the final rule and the Responsiveness Summary.

Subsequent to the publication of the NOIA and close of the public comment period, a representative of a council of governments (COGs) established under Iowa Code 28H made it known that COGs would be interested in carrying out the program, noting that they already administer some loan programs. Staff believes that COGs could serve an important role in carrying out the onsite loan program. If they could function as a financial institution, they could make loans through the linked deposit program envisioned under the rule, similar to local lending institutions. However, it is believed the COGs are more interested in a program where they would be the sole source of onsite loans and if this is the case, the rules would have to be changed significantly, to the extent that the existing rulemaking should be terminated and a new NOIA published. A representative of the COGs may make a presentation to the Commission regarding their proposal.

(A copy of the final rule is available in the Department’s record center.)

Mike Valde said this rule had been started last June after the Legislature passed the Water Initiative Bill, which provided money for assistance for onsite systems such as septic tanks. The Senate and House have passed a bill giving the Department authority to create a revolving loan fund and it is on the Governor's desk to be signed. The Department has 180 days after the last public hearing held to either adopt a rule or terminate rulemaking and April 16 is the 179th day. He said after the public hearings had been held he had received word from the Councils of Government (COGs) were interested in managing the revolving loan funds, however to do that would represent a significant change in the way they proposed the rules and the process would need to start over. He asked the Commission to approve the final rule as presented.

Motion was made by Rozanne King to approve the final rule. Seconded by Rita Venner.

Darrell Hanson said he had once been a member of a Council of Government and knew they had experience in handling various types of revolving loan programs. He said he had some concerns about using the link deposit program because of criticism he has heard that some bankers were not interested in dealing with it and therefore the loan program was not available in some areas.

Jack Riessen said they realized that the program can only be as successful as the local lending institutions in it. Therefore one of the things they would like to do is hire a consultant to administer and to advertise this fund, which may put local pressure on the lending institutions.

Brief discussion followed.

Terry Townsend said there was a motion and a second on the floor. He asked all those in favor say aye.

Motion carried unanimously.

APPROVED AS PRESENTED

NONPOINT SOURCE POLLUTION CONTROL PROJECTS CONTRACTS

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

Commission approval is requested for the following twelve contracts with Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation for nonpoint source (NPS) pollution control projects.

These contracts are for projects funded by the FY2000 Section 319 grant and provide a total of \$1,899,800 in Section 319 funding. The EPA grant is awarded specifically to be used for these projects. Funding from other state and federal programs is also being used to support many of these projects. Most of these projects are multiple year projects, with Commission approval being sought to prepare contracts for each year of the entire project period.

The project costs (i.e., Section 319 funds to be provided during the entire project period for which Commission approval is requested) project descriptions, and the activities supported are provided below.

- **Water Quality in Rathbun Lake: Demonstrating Low Cost Methods for Livestock Waste Management, Wayne County, \$80,000** – This contract will provide two years of funding support for a multi-year project to protect and improve the water quality of Rathbun Lake from impacts associated with animal manure. Rathbun Lake is included on the 303(d) list of impaired waters due to impacts from atrazine. Although this project will not specifically address the atrazine issue, its activities will contribute to improving the lake's water quality. Reduction of manure delivery to the lake will be accomplished by implementing a series of low-cost livestock waste management demonstrations appropriate for relatively small-scale livestock operations. Practices to be implemented include appropriate relocation of existing operations as well as initial location of new operations and use of diversions, settling basins, and grass filters. In addition, individual and group training will be provided on proper nutrient management practices related to the storage, handling, and use of animal manure. The project will also conduct producer information and education activities such as field days and tours, workshops, signage at demonstration sites. Funds will be used to support a part-time project coordinator, implementation of the demonstration sites, water quality monitoring, and the information/education activities.
- **Water Quality in Bob White Lake, Wayne County, \$167,000** – This contract will provide two years of funding support for a multi-year project to protect and improve the water quality of Bob White Lake; a 303(d) listed water body. Sediment and nutrient delivery to the lake will be reduced through the implementation of best management practices (BMPs) such as terrace restoration and construction; wetland development; pasture, hayland, and woodland management; and nutrient and pest management. A volunteer monitoring program will be initiated to support the water quality efforts in the Bob White Lake watershed. Contract funds will be used to support the project coordinator and provide financial incentives for implementation of BMPs.
- **Water Quality in Corydon Reservoir, Wayne County, \$72,000** – This contract will provide two years of funding support for an ongoing project to protect and improve water quality in the Corydon Reservoir; a 303(d) listed water body due to atrazine impacts. The project will focus on reducing the impacts of agricultural sources of water quality impairment, and will include: an intensive farm-level assessment of all farming operations in the watershed, terrace construction on highly erodible cropland, wetland development, nutrient and pest management, and water quality monitoring. Contract funds will be used to support the project coordinator and provide financial incentives for

implementation

of

BMPs.

- **Mineral Creek Water Quality Project, Jones County, \$280,000** – This contract will provide three years of funding support for a project to reduce the amount of sediment, nutrients, and fecal coliform bacteria being delivered to the Maquoketa River from the Mineral Creek watershed. The stretch of the Maquoketa River at the mouth of Mineral Creek is on the 303(d) list of impaired waters due to fecal coliform bacteria. In addition, Central Park Lake within the Mineral Creek watershed is included on the 303(d) list of impaired waters due to excessive nutrients, siltation, and algae growth. Critical areas of the watershed will be identified, based on potential impact to water quality, and these areas will be targeted by the project. BMPs to be implemented under the project will include grassed waterways, water and sediment basins, terraces, buffer strips, stream bank stabilization, wetlands, animal waste control facilities, and nutrient and pest management programs. Contract funds will be used to support the project coordinator, an information/education program, and to provide financial incentives for implementation of BMPs.
- **Three Lake Water Quality Project, Adams County, \$300,000** – This contract will support the continuation of an ongoing three year project (not previously funded by Section 319) to protect and improve the water quality of Lake Icaria, Lake Binder, and West Corning Lake. All three of these lakes serve as public water supplies and are included on the 303(d) list of impaired waters due to excessive sedimentation. The Section 319 funding will be used to reduce sediment delivery to the lake from the public lands in the watershed of Lake Icaria, through construction of grade stabilization structures and stream bank stabilization practices. In addition, a detailed assessment of all work accomplished to date and an identification of remaining lake protection needs will be completed. Contract funds will be used to support the project coordinator, and implementation of the BMPs.
- **Rock Creek Water Quality Project, Clinton County, \$125,000** – This contract will provide funding support for continuation of an ongoing three-year project (not previously funded by Section 319) to protect and improve the water quality of Rock Creek. Rock Creek is a backwater of the Mississippi River and is included on the 303(d) list of impaired waters due to ammonia and nitrate/nitrite impacts from a point source. Although this project will not specifically address the point source related ammonia and nitrate/nitrite issues, activities conducted under the project will address overall water quality of Rock Creek and will work cooperatively with the TMDL efforts. This project will focus on reducing nonpoint source pollution impacts, the majority of these being agricultural, on the water quality of Rock Creek. BMPs such as nutrient/pest management, conservation tillage, grassed waterways, grade stabilization structures, buffers, stream bank stabilization, wetlands, and animal waste systems will be promoted and implemented. Contract funds will be used to support the project coordinator, financial incentives for the BMPs, and an information/education program.
- **Mud Creek Water Quality Project, Muscatine County, \$240,000** – This contract will provide three years of funding support for a project to protect and improve the water quality of Mud Creek. Mud Creek is included on the 303(d) list of impaired waters due to organic enrichment. In addition, Mud Creek is being impacted by animal wastes, nutrients and pesticides, and sediment. Practices to be implemented under the project include: riparian buffers, grass filter strips and waterways, animal waste systems, prescribed grazing, nutrient and pest management, and stream bank stabilization. Local involvement will be promoted through a backyard conservation program and a volunteer water quality monitoring program. Contract funds will be used to support a project coordinator and financial incentives for the BMPs.

- **Lake Darling Water Quality Improvement Initiative, Washington County, \$300,000** – This contract will provide three years of funding support for a project to protect and improve the water quality of Lake Darling, included on the 303(d) list of impaired waters due to siltation and nutrients. A comprehensive watershed assessment will identify areas of the predominately agricultural watershed where project activities will be targeted, based on providing the greatest water quality benefits. Sediment delivery to the lake will be reduced by implementing such practices as terraces, grade stabilization structures, wetlands, grassed waterways, filter strips, buffers, and managed grazing systems. A nutrient and pest management program will be offered, involving a series of producer meetings, demonstrations, and one-on-one education. A variety of public information/education activities will be carried out to promote the project and water quality awareness throughout the watershed. Contract funds will be used to support the project coordinator, the I&E program, and provide financial incentives for implementation of BMPs.
- **Whitebreast Creek Watershed Restoration Project, Clarke County, \$55,800** – This contract will provide two years of funding support for a multi-year project to protect and improve the water quality of Whitebreast Creek, a subwatershed of Lake Red Rock. The US Army Corps of Engineers (COE) has approved a Section 206 Project to support construction of a number of grade stabilization structures in the Whitebreast Creek watershed. The COE Section 206 project is approximately a \$4.3 million effort, and its implementation will require cooperation of landowners and Soil and Water Conservation Districts throughout the watershed, as well as the COE, NRCS, DSC, and DNR. Due to the multi-county nature of the project, a dedicated staff is needed to serve as a liaison between the entities involved and to coordinate the long-term activities necessary to resolve the water quality issues of the watershed. Contract funds will be used to support the project coordinator and associated costs of managing the project.
- **Iowa Great Lakes Clean Water Project, Dickinson County, \$20,000** – This contract will support a one year extension of this ongoing project. This project is intended to protect and improve the water quality of the Iowa Great Lakes region in Dickinson County. Upper Gar Lake, Lower Gar Lake, Little Spirit Lake and Milford Creek are included on the 303(d) list of impaired waters and are considered part of the Iowa Great Lake region. Although this project is not intended to specifically address the 303(d) listed waters, activities conducted under the project are intended to improve the overall water quality of the Iowa Great Lakes and the project will work cooperatively with the TMDL efforts on these impaired water bodies. The major focus of this project extension will be on completing a comprehensive watershed assessment to determine the future needs and direction of the project. Contract funds will be used to support the project coordinator.
- **Rock Creek Lake Watershed Improvement Project, Jasper County, \$200,000** – This contract will provide funding support to continue an ongoing watershed project to protect and improve the water quality of Rock Creek Lake in Jasper County. Rock Creek Lake is included on the 303(d) list of impaired waters due to siltation and nutrients. This project will work closely and cooperatively with the TMDL efforts being undertaken in the watershed. Reduction of sediment and nutrient delivery to the lake will be accomplished through the implementation of best management practices (BMPs) such as ponds and other grade stabilization structures, riparian buffers on crop and pasture lands, livestock exclusion from stream corridors, stream bank stabilization, terraces and wetlands. In addition, a comprehensive information and education program will be implemented. Contract funds will be used to support the project coordinator, the I&E program, and provide financial incentives for implementation of BMPs.

South Fork Watershed Demonstration Project, Hardin County, \$60,000 – This contract will provide three years of funding support for a project to reduce nutrient impacts on the South Fork of the Iowa

River. This project will carry out a comprehensive educational program in which producers can learn to better manage nutrients and other inputs to improve profitability and decrease environmental impacts. Demonstration sites will be established on farm fields at locations throughout the watershed, with a certified crop consultant preparing the nutrient and pest management plans for these sites. Classroom workshops will be held to provide information and training on Integrated Crop Management principles and results and to highlight the demonstration sites. Soil testing will be encouraged, with cost-share available to offset testing costs. Contract funds will be used to support establishment of the demonstration sites, meetings, and project newsletters.

Mike Valde briefed the Commission on the item and said most of the 12 contracts presented for approval are for water bodies that are on the 303(d) list of impaired waters.

Brief discussion followed.

Motion was made by James Braun to approve the contracts as presented. Seconded by Rozanne King. Approved as presented.

APPROVED AS PRESENTED

DENIAL OF PETITION FOR RULE MAKING AND NOTICE OF INTENDED ACTION TO SOLICIT COMMENT ON POTENTIAL AIR QUALITY REGULATIONS OF ANIMAL FEEDING OPERATIONS

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be asked to deny the attached petition for rule making to add a new chapter 32, "Controlling Air Pollution from Confined Feeding Operations," 567 Iowa Administrative Code, and to direct the staff to consult with the AACO regarding the scope of a proposed subject matter rulemaking.

The petition proposes to add a new chapter containing a detailed set of rules creating a comprehensive construction and operating permit program and the setting of emissions standards for the regulation of emissions of various chemicals and odors from large-scale livestock facilities. The specific language proposed by petitioner should not be adopted for the reasons stated in the denial.

The Commission will be asked to approve the Notice of Intended Action for a subject matter rule making soliciting public comment on the need for air quality regulation of animal feeding operations and what form of regulation would be appropriate if needed.

At the February 2001, Environmental Protection Commission meeting the department recommending denial of the Iowa CCI petition for rulemaking to establish a specific rule to regulate large-scale animal feeding operations. The department also suggested that the Air Quality Bureau bring forward a subject matter rulemaking to solicit comment on the need for air quality regulation of animal feeding operations, and what possible forms that regulation might take. The Commission voted to table the Iowa CCI petition for rulemaking until Director Vonk had an opportunity to review the issue. On February 28, 2001, the department discussed with the Animal Agriculture Consulting Organization (AACO) the objectives of the subject matter rulemaking.

In the subject matter rulemaking the department describes four options for regulating animal feeding operations and solicits comments on a wide variety of questions designed to inform the department on issues related to the potential development of air quality regulations.

Six public hearings will be held across the state to solicit comment on this issue. An extended comment period is established to ensure the opportunity for public comment and dialog with the department. After review of these comments the department will prepare a summary of comments and refer the issue back to the Commission.

In another item before the Commission today the department is again recommending denial of the Iowa CCI petition for rulemaking.

IOWA DEPARTMENT OF NATURAL RESOURCES

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<p>IN THE MATTER OF:</p> <p>Petition by Iowa Citizens Community Improvement, et al., for the adoption of rules relating to odor and chemical emissions standards</p>	<p>DENIAL OF PETITION FOR RULEMAKING</p>
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TO: Lynn A. Hayes
Attorney at Law
Farmers' Legal Action Group, Inc.
1301 Minnesota Building
46 East Fourth Street
St. Paul, Minnesota 55101

I. SUMMARY

On January 15, 2001, the Iowa Citizens for Community Improvement, et al., (ICCI) filed with the Iowa Department of Natural Resources (DNR) a Petition for Rulemaking proposing to adopt a new 567 Iowa Administrative Code chapter 32, Controlling Pollution from Confined Feeding Operations. Subsequently, the petitioner in a letter to DNR agreed to extend the period for consideration of the petition beyond the 60 days past January 15, 2001. The petition proposes the adoption of a detailed set of rules creating a comprehensive construction and operating permit program and the setting of emissions standards for the regulation of emissions of various chemicals and odors from large-scale livestock facilities.

DNR hereby denies the Petition for Rulemaking, for the following reason(s):

- (1) The petition would establish a construction permitting program, an operation permit program, a monitoring program and an inspection program. These programs would be directed towards a large number of facilities and individuals. The department does not have adequate information before it to confirm that the public health and welfare threats presented by the petitioners are severe enough to justify that intrusive a regulatory presence.
- (2) The construction and operating permit programs that would be established by the petition do not include the technical details necessary to guide applicants in development of their submittals or to guide staff in their permit review of applications. Staff does not currently have the information before it to develop this guidance.
- (3) The petition would implement a monitoring program that would require a substantial investment in new equipment that the department has no expectation of being able to obtain.
- (4) Operation of a regulatory program of the scope and complexity establish by the petition would require a considerable number of staff. The department has no expectation of obtaining the authorization or funding for such a staffing effort. Nor

does the petition contain adequate documentation of a threat to the public health and welfare of sufficient magnitude to justify diverting the large number of staff that this proposal would require from existing efforts to protect public health and welfare.

DNR recognizes that a rulemaking in this subject matter area may be appropriate. However, while the rules submitted with this petition establish a particular regulatory approach, the department could implement alternative approaches to deal with the public health and welfare concerns presented by the petitioners. It is the department's position that an alternative approach can be developed to address the concerns raised by the petitioners without being as intrusive or expensive for all the parties involved. The department proposes to pursue investigation of various alternatives. By collecting information from all interested parties, the benefits and disadvantages of the various options can be thoroughly investigated before any specific rulemaking proposal is presented to the commission.

In conjunction with the denial of this Petition for Rulemaking, the department is recommending to the Environmental Protection Commission in April 2001, a proposed subject matter rulemaking Notice of Intended Action to request comment on various approaches that could be used. At a later time, subsequent to providing the opportunity for extensive public and interested party input and the development and analysis of various approaches, the department intends to bring forward a report to the Environmental Protection Commission.

(A copy of the Notice of Intended Action is available in the Department's Record Center.)

Motion was made by Rita Venner to remove the item from the table. Seconded by Rozanne King. Motion carried unanimously.

REMOVED FROM TABLE

Mike Valde said the petition was filed at the January meeting, and then it was tabled at the February meeting to allow Director Jeff Vonk to become familiar with the issue. He said they have talked with the Iowa Citizens for Community Improvement and it was agreed that this item should be tabled for six months to allow Director Vonk ample time to look into the issue. He said the second part of this item is the Notice of Intended Action, which he proposes to table for two months for the same reason. He said the Department would need the concurrence of the petitioner in order for this to be done.

Hugh Espe from Iowa CCI agreed to the delay.

Motion was made by Darrell Hanson to table Iowa CCI's petition for six months and the Department's Notice of Intended Action for two months. Seconded by Lisa Davis Cook. Motion carried unanimously.

ITEMS TABLED

Hugh Espe, Rural Project Director for Iowa Citizens for Community Improvement (Iowa CCI) distributed a letter signed by Frank Jones, Chairman of Iowa CCI and said he would like to

respond to a couple of point made by Mr. Bierman. He said Iowa CCI is a community organization that is membership based and has over 1,400 members around the state. Many of those members are family farmers and a number of those people raise livestock. Iowa CCI support animal agriculture. He said he interpreted Mr. Bierman's comments to state that the primary focus of Iowa CCI's petition was to control odor. While odor is mentioned in the petition Iowa CCI's main concern is a public health issue, it is the emissions that come off of large-scale facilities. He said Mr. Bierman referred to statement from the Department of Public Health which indicated air emissions from large scale facilities are not a health threat, however Dr. Stephen Gleason, Director of the Department of Health, stepped in and retracted that statement. He said the Center for Disease Control disagrees with the notion that there are nohealth problems and Rick Kelly, who has worked with the State for over 20 years on water quality issues and is well respected in the field, was quoted in the Register as saying "this was a science report without the science." He said the third point he wanted to address was Mr. Bierman's comment about separation distances in HF519 acting as air quality standards. He said the minimum separation distances from large facilities is about 1000 feet. Under current law, someone can put an 8,000 head hog-finisher unit 1,250 to 1,500 feet from your front door and there would be nothing you could do about it. The emissions from those facilities travel a lot further than the current separation distances. He then read the letter that he had distributed, asking the Commission to postpone taking action on their petition and urging them to go forward with public hearings for this rule making.

(A copy of the letter from Iowa CCI can be obtained in the Department's Record Center.)

Kari Cobler, from Iowa CCI said she wanted to inform the Commission that there is a bill before the legislature called Senate File 410 that is meant to limit DNR authority to do anything about indoor emissions sources. Due to lobbying efforts by agricultural industry they have removed language that would keep factory farms out of this bill. By their efforts to include factory farms in this bill, indicates to her that there is a problem with air emissions. She said they do not want DNR regulation because there is a problem. She said Iowa CCI is asking the Commission and Staff to take a stand on this and let the Legislature know that we do not want DNR's hands to be tied, that they want to be able to protect public health, the environment, and quality of life.

Jeff Vonk presented Rozanne King with a plaque commemorating her time on the Commission. He said Rozanne had been on the Commission since June of 1989 and served as chair from May 1995 to April of 1997. He said although it is with sadness on his part that he see her leave the Commission when he is just getting started he would like to recognize her outstanding service to the people in the State of Iowa and the fine work she had done over that 12 year period. He said that he also had a plaque for Randall Giannetto who will also be leaving the Commission after four years of service.

CONTESTED CASE APPEAL – LOYAL RUE, ET AL

Michael Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

On July 27, 2000, the department issued Flood Plain Development Permit Number FP 00-148 to Wal-Mart Stores, Inc. That action authorized the relocation of a stream, excavation of detention basins, placement of riprap and fill, and construction of a building and parking lot on the flood plain of the Upper Iowa River. That action was appealed by Loyal Rue and others, and Frank Holland and the matter proceeded to administrative hearing on October 20, 2000. The Administrative Law Judge issued the attached Proposed Decision on December 12, 2000. The decision affirms the issuance of the permit.

Mr. Rue, et al. have appealed the Proposed Decision to the Commission. The Proposed Decision and pertinent documents have been distributed to the Commissioners. The entire record, including hearing tapes and exhibits are available for your review. The parties will be available to argue their respective positions and respond to your questions. You may then affirm the Proposed Decision, or modify or reverse it, substituting your own findings of fact and conclusions of law based on your conclusions from your review of the record and legal argument.

Mike Murphy said this is a contested case appeal involving the Department's issuance of a flood plain construction permit for the construction of a Wal-Mart Store in Decorah Iowa. The matter was appealed by various interested parties in the area. The matter went to hearing and the ruling was issued by the administrative law judge upholding the issuance of the permit. He said Karl Knutson would present the case of the petitioners, Randy Clark will present the Department's case and Charles Becker will represent Wal-Mart.

Karl Knutson said the Commission is a citizen's advisory body that is vested with the authority to overrule the decisions of the DNR and the Department of Inspections and Appeals. He said the model developed to predict the hundred-year flood was not calibrated and the one time it was tested it proved to be off by 2.4 times. There is a question as to who really has the responsibility, the person who signed the permit did not understand the process, he relied on other engineers and those engineers had not calibrated the model. Because the level was set at 847.0 there had been no equal and opposite conveyance study done. But that level had been brought into question by the testimony. He said the City of Decorah does not participate in the National Flood Insurance Program, which means they have no flood insurance and there has been no comprehensive flood study done in this area. He said he would also like to address the Protected Water Area (PWA) plan, which Wal-Mart says is entirely voluntary. The plan says if the land is agricultural flood plain, which the testimony in this case says it was, then the land should not be converted to commercial or industrial or residential use. The DNR has the responsibility to coordinate its authority and attempt to implement that plan. He said in order to show prejudice the petitioner would need to show is that the appellants will be flooded because of the development. He moved that the record be corrected in the following manner: page 161, line 30 of the transcript, Fisher is testifying, he says this particular stream is not normal depth steady state uniform flow, the transcript indicates that this statement is unintelligible. On page 143, lines 6-7, of the transcript, it says "this is a - it's a (two words unintelligible) in the river. It should be "This is a - it's a tight spot in the river.

Randy Clark, Attorney for the DNR said evidence in this case does not support the appellant's argument that the Department's engineering analysis was erroneous. Even the appellant's expert, an engineer with years of experience, would not say that he had concerns with the Department's engineering analysis but would only say that he had questions. The evidence appellants rely upon to assert that the Department's model was not calibrated, was itself uncalibrated. The Administrative Law Judge had heard all of the evidence and had concluded that the DNR properly and correctly determined that all rule criteria had been met. The appellants have said the Department should have taken however much time was necessary to obtain the results of a comprehensive flood study before deciding the application, however the Department is required by law to make a decision, based on information that it can reasonably request from an applicant, within six months after a completed application has been received. He said the fact that Decorah did not participate in the Flood Insurance Program and therefore did not have a comprehensive flood study done is true, but participation is a local initiative and is not something that the Department can require. The appellants have said the Department failed to properly consider the Upper Iowa River as a protected water area. The Department did give the project a "closer look" precisely because it is located in a protected water area. The project was routed among the Department's Water Quality, Fish and Wildlife, and Parks personnel, mitigative measures for impacts to the area's unique resources were suggested and Wal-Marts plans indicate that they will carry out those measures. He said there is nothing in the statute pertaining to protected water areas nor in the protected water area statewide plan or the Decorah plan which would authorize the Department to deny a flood plain permit based on that program.

Brief discussion followed

Charles Becker, Attorney for Wal-Mart quoted the summary of the Administrative Law Judge's decision and said nothing the Commission has heard today alters that decision. He said the petitioners have to prove that the statement is wrong, it is not enough that some other conclusion can be drawn from the evidence. No one testified that the Manning formula was inappropriate or inaccurate nor was the Manning Formula the only thing used in determining the 100-year flood levels. He quoted the petitioner's expert witness who said it is often used in this sort of site but has to be used with a lot of judgement. The regulations do not require DNR to make an equal and opposite conveyance determination for this area. He said although the PWA is not a mandatory program the DNR did consider it. They asked for and received concessions from Wal-Mart including a buffer strip of trees. He said there is no evidence of injury to the petitioners, both DNR and Ray Frankenburg, the expert for Wal-Mart, showed that the flood levels would remain the same after the construction as they were before the construction. He asked the Commission to uphold the ALJ decision as it was written.

Lengthy discussion followed.

Motion was made by Darrell Hanson to affirm the decision of the Administrative Law Judge. Seconded by Kathryn Murphy. Motion carried unanimously.

ALJ DECISION UPHELD

REFERRAL TO THE ATTORNEY GENERAL

Michael Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

- a) **Winter Mobile Home Park** (New Hampton) – water supply/penalty
- b) **Robert [Jerry] Condon, Home Asbestos & Lead Abatement Services** (West Des Moines) – air quality/penalty
- c) **Weber Construction, Inc.** (Cascade) – air quality/penalty.

Mike Murphy said that the Winter Mobile Home Park is owned by John Winter but is being sold on contract to Chad Sweitzer who currently operates the facility. The facility contains a public drinking water supply that is used by the residents. He said the litigation report lists the deficiencies that the Department has been trying to correct and with the exception of the bacterial samples now being done, none of the deficiencies have been corrected. The Department has issued two administrative orders none of which have been appealed and there still has been no compliance. Mr. Sweitzer failed to apply for renewal of his permit and is currently operating without one. The Department recommends shutting down the facility but if Mr. Sweitzer would begin to comply with the operating conditions for a public water supply, the Department would consider allowing him to operate under an injunction with a certified operator.

Motion was made by Rozanne King to refer Winter Mobile Home Park to the Attorney General. Seconded by Darrell Hanson. Motion carried unanimously.

A brief discussion regarding notification of the residents followed.

REFERRED

Mike Murphy said the second referral is Robert also known as Jerry Condon who owned a company called Home Asbestos and Lead Abatement. He was issued an administrative order assessing a \$2,000 penalty back in 1993. The order was appealed and went through contested case hearing. The order and penalty were upheld but the ALJ gave him credit for a \$150 payment he had made. After that through a series of small payments his penalty was brought down to \$1,150 and then he stopped making payments.

Motion was made by Darrell Hanson to refer Mr. Condon to the Attorney General. Seconded by James Braun. Motion carried unanimously.

REFERRED

Mike Murphy said the final request for referral would be withdrawn due to payment being received by the Department.

CONTRACT FOR CONSTRUCTION AND TESTING MONITORING WELLS

Larry Bean, Division Administrator for the Department of Energy and Geology, presented the following item.

The Department requests Commission approval of a \$101,075 construction contract with Aquadrill, Inc. of Coralville, IA to conduct rock coring, aquifer testing, geophysical logging and construction of four groundwater monitoring wells in Briggs Woods, near Webster City, Hamilton County. Aquadrill, Inc. was the only bidder on the project.

This would be the first of perhaps 60 monitoring well nests developed into aquifers across the state in strategic locations. Well nests are groups of wells; each finished in different discrete strata that are co-located. Water from these wells will be age dated to determine relative vulnerability, and tested for many years for changes in water quality and water levels. They are the best way of monitoring ambient groundwater because they are very precise and are not influenced by pumping. In this instance, the target is the Mississippian-age aquifer, which nearby is used as the receiver of agricultural drainage wells and is widely used in central Iowa for municipal and private sources of groundwater. The deepest well may be as deep as 500 feet.

Funding for this contract is available from the RIIF State funds appropriated as part of the Iowa Water Quality Initiative.

Larry Bean said that Bernie Hoyer, Section Supervisor for the Water Resources Section of the Geological Survey Bureau would present items 12, 13, and 14 from the agenda.

Bernie Hoyer distributed a status report for the Water Monitoring Program.

Mr. Hoyer said normally the construction items go to the Natural Resources Commission, however all items regarding the Water Monitoring Program need to be brought before the Environmental Protection Commission. He said for ground water monitoring the Department is looking at a multiple attack. One using wells which exist for public water supplies, the second will be using private water supplies and the third is to use dedicated monitoring wells whose only purpose will be to monitor water quality. He described the project to the Commission.

Brief discussion followed.

Motion was made by Rozanne King to approve the contract as presented. Seconded by Darrell Hanson. Motion carried unanimously.

APPROVED AS PRESENTED

NEW CONTRACT FOR INSECTICIDE MONITORING USING BENTHIC ORGANISMS

Larry Bean, Division Administrator for the Department of Energy and Geology, presented the following item.

The Department requests Commission approval of a \$62,710 contract with Dr. Kurt Pontasch, Department of Biology, UNI to conduct pesticide monitoring of streams for the time period of February 1, 2001 through January 31, 2002. The contract is titled: Organophosphorus Insecticide Contamination in Streams: Insects as Bioindicators – Year 2.

This contract is for research into the feasibility of using benthic macroinvertebrates as indicators of exposure to organophosphorus insecticides. Dr. Pontasch measures the suppression of cholinesterase in a mayfly, *Isonychia bicolor*, as a measure of exposure to organophosphorus insecticides such as turbofos (Counter) and chlorpyrifos (Lorsban/Dursban). Cholinesterase is a chemical that controls nerve impulses in all animals. Suppression occurs quickly upon exposure, and the suppression appears to be proportional to dose. Cholinesterase suppression has been shown to continue for 30 days, allowing the indirect detection of the insecticide. Insecticides are only occasionally measured in normal chemical stream monitoring because they remain in the water only a short time, and monitoring rarely occurs during that duration. The chemical record of insecticides is very spotty, but the bioindicator may provide us with a more complete picture of insecticide exposures in Iowa streams. Preliminary research suggests exposure in several northeast Iowa streams.

Funding for this contract is available from RIIF state funds as a part of the Iowa Water Quality Initiative.

Bernie Hoyer said his division is always looking at new techniques to do the monitoring appropriately. Their goal is to characterize conditions in our rivers, lakes, and groundwater. He then described the proposed testing technique.

Motion was made by Kathryn Murphy to approve the contract as presented. Seconded by James Braun. Motion carried unanimously

APPROVED AS PRESENTED

NEW CONTRACT FOR MONITORING OF ORGANIC CHEMICALS INCLUDING PHARMACEUTICALS

Larry Bean, Division Administrator for the Department of Energy and Geology, presented the following item.

The Department requests Commission approval of a \$139,425 contract with Dana W. Kolpin, U.S. Geological Survey, Iowa City to collect water samples from Iowa streams and to conduct the laboratory analysis over the time period of May 1, 2001 and December 31, 2001. The contract is titled: The Occurrence of Pharmaceuticals in Iowa Streams, 2001.

The purpose of this contract is to investigate the occurrence of a wide array of organic compounds including pharmaceuticals in Iowa's stream water. These are emerging as water quality concerns because of their possible impact on humans, aquatic organisms or other non-targeted species. These compounds include veterinary and human antibiotics (such as tetracycline), prescription and non-prescription drugs (such as acetaminophen, codeine, ethynyl estradiol), insecticides, household and industrial products (such as plasticizers, fire retardants, hydrocarbons, antioxidants, and sterols). Sampling will be conducted in spring, summer and fall both above and below 10 Iowa cities. The USGS is currently conducting a national study for these compounds, and all procedures will be compliant with the national study. The design will allow evaluation of both widespread exposures to these compounds in streams, and the impacts of cities on streams immediately below the urban environment. Analytical results may be available by June 2002.

Funding for this contract is available from RIIF state funds as a part of the Iowa Water Quality Initiative.

Bernie Hoyer briefed the Commission on this item and said the amount of \$139,425 is now changed because the USGS will now be covering \$45,000 in matching funds.

Motion was made by James Braun to approve the contract as amended. Seconded by Kathryn Murphy. Motion carried unanimously.

APPROVED AS AMENDED

MONTHLY REPORTS

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Manure Releases Report
5. Enforcement Status Report
6. Administrative Penalty Report
7. Attorney General Referrals
8. Contested Case Status Report
9. Waste Water By-passes Report

[illegible]

Removal of Disposal of PCBs from Appliances Prior to Processing	4/16/01	*5/16/01		*6/05/01			*6/18/01	*6/18/01	*7/11/01		*8/07/01	*8/15/01
15. Ch. 211 - Grants for Regional Collection Centers of Conditionally Exempt Small Quantity Generator and Household Hazardous Wastes.							3/19/01	3/19/01	*4/18/01		*5/05/01	3/30/01

Item No.	Facility	Program	Engineer	Subject	Decision	Date
1	ADM Corn Processing-Clinton	Air Quality		Permit Requirements	Approved	03/01/01
2	Darling International, Inc.-Sioux City	Air Quality		Fuel Test	Approved	03/19/01
3	Industrial Laminates/Norplex, Inc.-Postville	Air Quality		Permit Requirements	Approved	03/01/01
4	Osceola Foods-Osceola	Air Quality		Permit Requirements	Approved	03/15/01
5	Pella Corporation-Pella	Air Quality		Permit Requirements	Approved	03/22/01
6	Woodform, Inc.-Maquoketa	Air Quality		Permit Requirements	Approved	03/02/01
7	Cresco, City of	Wastewater Construction	Howard R. Green Company	Bar Racks and Screens	Approved	03/08/01
8	IDOT Rest Areas 23 & 24-Pottawattamie County	Wastewater Construction	HGM Associates, Inc.	Lagoon Multi-Level Drawoffs	Approved	03/08/01
9	Red Oak, City of	Flood Plain	JFSCO Engineering	Freeboard	Approved	03/02/01
10	Pattison Brothers Mine-Clayton	Solid Waste	BT2, Inc.-Madison, WI	Coal Combustion Residue	Approved	03/22/01
11	Mahaska Rural Water Systems-Oskaloosa	Watersupply Construction	Garden & Associates	Water Monitoring	Approved	03/21/01
12	Park View Water Company-Eldridge	Watersupply Construction	Kuehl & Payer, Ltd.	Duplication Requirements	Approved	03/09/01

[illegible]

August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Total	353 (395)	17 (53)	244 (249)	91 (88)	98 (151)	212 (204)	1 (6)	12 (9)	5 (2)	25 (23)

(numbers in parentheses for same period last year)

During the period March 1, 2001, through March 31, 2001, 2 reports of manure releases were forwarded to the central office. A general summary and count by field office is presented below.

Month	Total Incidents Impacts	Feedlot Application	Confinement Water	Land	Transport	Hog	Cattle	Fowl	Other	Surface
October	5 (6)	0 (0)	2 (3)	2 (2)	1 (1)	4 (6)	1 (0)	0 (0)	0 (0)	1 (2)
November	3 (4)	0 (0)	2 (2)	1 (1)	0 (1)	3 (3)	0 (1)	0 (0)	0 (0)	1 (0)
December	2 (2)	0 (0)	1 (1)	1 (1)	0 (0)	2 (1)	0 (1)	0 (0)	0 (0)	0 (0)
January	1 (0)	0 (0)	1 (0)	0 (0)	0 (0)	1 (0)	0 (0)	0 (0)	0 (0)	0 (0)
February	4 (1)	0 (0)	4 (1)	0 (0)	0 (0)	4 (1)	0 (0)	0 (0)	0 (0)	2 (1)
March	2 (0)	0 (0)	1 (0)	1 (0)	0 (0)	1 (0)	1 (0)	0 (0)	0 (0)	0 (0)
April	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
May	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
June	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
July	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Total	17 (13)	0 (0)	11 (7)	5 (4)	0 (0)	15 (11)	2 (2)	0 (0)	0 (0)	4 (3)

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Sioux City, City of (3)	Drinking Water	Compliance Schedule; Monitoring/Reporting	Consent Order \$10,000 SEP	2/19/01
Al Luchtel d/b/a K & D Painting, Ltd., Carroll (4)	Solid Waste Hazardous Condition	Illegal Disposal; Remedial Action	Order/Penalty \$2,000	2/22/01
Melsha Tap, Inc. Swisher (6)	Drinking Water	Monitoring/Reporting – Bacteria, Nitrate; Public Notice	Order/Penalty \$300	3/2/01
Alan Pedersen and Duane and Marilyn Marcellus, Humboldt (2)	Underground Tank	UST Closure	Order	3/2/01
Paul Riha d/b/a Riha Auto Sales, Vining (5)	Underground Tank	UST Closure	Order/Penalty \$1,200	3/2/01
Gary Stutzman, Washington Co. (6)	Animal Feeding Operation	Prohibited Discharge – Confinement; Water Quality Violations – General Criteria	Order/Penalty \$1,500	3/2/01
Iowa Skate U, Iowa Falls (2)	Drinking Water	Operation Without Permit; Failure to Pay Annual Fee	Order/Penalty \$500	3/2/01
Four Oaks, Inc. of Iowa, Cedar Rapids (1)	Drinking Water	MCL – Bacteria	Order	3/2/01
Richard Thompson d/b/a Thompson Auto Parts, Story Co. (5)	Wastewater Solid Waste	Pollution Prevention Plan Violations; Illegal Disposal	Order/Penalty \$1,000	3/8/01
River Products Company, Inc. Johnson Co. (6)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty \$500	3/8/01
Carter Lake, City of (4)	Solid Waste	Comprehensive Planning Violation	Order/Penalty \$2,000	3/8/01
Casey's General Stores, Inc., Aplington (2)	Underground Tank	UST System Deficiencies	Order/Penalty \$2,500	3/8/01

Grace Community Church, North Liberty (6)	Drinking Water		Monitoring/Reporting – Bacteria, Nitrate, Other Inorganics; Public Notice	Order/Penalty \$500	3/8/01
Jefferson, City of (4)	Wastewater		Monitoring/Reporting; Compliance Schedule; Discharge Limits; Pretreatment	Order/Penalty \$5,000	3/8/01
Max Dahlhauser, West Bend (3)	Underground Tank		UST Closure	Order/Penalty \$670	3/13/01
DEBCO, Inc., Crawford Co. (4)	Animal Operation	Feeding	Prohibited Discharge – Confinement; Water Quality Violations – General Criteria; Uncertified Applicator	Order/Penalty \$3,000	3/13/01
10 th Hole Food & Spirits, Calamus (1)	Drinking Water		Monitoring/Reporting – Bacteria, Nitrate	Referred to AG	3/19/01
ALMACO, Inc., Nevada (5)	Air Quality		Construction Without Permit	Amended Order	3/30/01
Envirobate Management Services, Johnston (5)	Air Quality		Asbestos	Order/Penalty \$3,000	3/30/01
Primghar Advancement Corp., Primghar (3)	Air Quality		Asbestos	Consent Amendment	3/30/01
Primghar Fire Dept.; City of Primghar (3)	Air Quality		Asbestos	Consent Amendment	3/30/01
R T & T, Inc., Bancroft (2)	Underground Tank		Registration	Order/Penalty \$600	3/30/01
Denny Wessels d/b/a Denny Wessels Transport, Bancroft (2)	Underground Tank		Illegal Deposit	Order/Penalty \$900	3/30/01
G. Michael Traul, Ottumwa (6)	Underground Tank		UST Closure	Order/Penalty \$860	3/30/01
Dallas O'Neal; Linda O'Neal, Council Bluffs (3)	Underground Tank		UST Closure	Order/Penalty	3/30/01
Keokuk Landfill, Lee Co. (6)	Solid Waste		Other	Consent Order	3/30/01
Onawa Country Club, Onawa (4)	Drinking Water		Monitoring/Reporting – Bacteria, Nitrate; Public Notice	Order/Penalty \$1,500	3/30/01
Doring Corp., Jackson Co. (1)	Animal Operation	Feeding	Prohibited Discharge – Open Feedlot; Water Quality Violations – General Criteria	Consent Order \$10,000 SEP	3/30/01
Forest City Cow Palace and Chuck Wagon Café, Forest City (2)	Drinking Water		Monitoring/Reporting – Bacteria; Public Notice	Order/Penalty \$250	3/30/01
Coralville, City of (6)	Wastewater		Compliance Schedule; Discharge Limits	Amended Order	3/30/01
Country Stores of Carroll, Ltd., Carroll (2)	Underground Tank		Construction Deficiencies	Order/Penalty \$4,700	11/15/00
Ron Vincent, Ft. Dodge (2)	Wastewater		Operation Without Permit	Order/Penalty \$300	11/15/00
LeRoy Dammann; Richard Schmidt d/b/a R & C Enterprises; Manning Betterment Foundation,	Air Quality		Construction Without Permit; Asbestos	Consent Amendment	11/29/00

Manning (4)

Envirobest, Inc., Cedar Rapids (1)	Air Quality	Asbestos	Consent Amendment	11/29/00
Hermitage Homes, Inc., Bettendorf (6)	Wastewater	Stormwater – Pollution Prevention Plan	Order/Penalty \$5,000	11/29/00
Sheaffer Manufacturing Co. d/b/a Sheaffer Pen Corp., Ft. Madison (6)	Air Quality	Construction Without Permit	Order/Penalty \$2,000	11/29/00
Metro Wrecking, Inc. d/b/a Metro Wrecking and Excavating, Des Moines (5)	Air Quality	Asbestos	Order/Penalty \$1,500	11/29/00
Rohlin Construction Co., Inc., Estherville (3)	Air Quality	Construction Without Permit	Order/Penalty \$10,000	11/29/00
James Harter, Brighton (6)	Wastewater	Stormwater – Operation Without Permit	Referred to AG	11/20/00
Johnston, City of (5)	Wastewater	Prohibited Discharge; Discharge Limits	Order	11/29/00
Super 20 Mobile Home Park, Dubuque (1)	Drinking Water	Public Notice	Order/Penalty \$500	11/29/00
Hitter's Sports Park, Cedar Rapids (1)	Drinking Water	Monitoring/Reporting – Nitrate; Public Notice	Order/Penalty \$300	11/29/00
Independence Mobile Home Park, Independence (1)	Drinking Water	Monitoring/Reporting – Bacteria; MCL – Bacteria; Operational Violations; Permit Renewal Fees; Public Notice	Order/Penalty \$800	11/29/00
Mid River Marina, Swisher (6)	Drinking Water	Monitoring/Reporting – Bacteria, Nitrate; Permit Renewal Fees; Public Notice	Order/Penalty \$250	11/29/00

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Bill Dettman d/b/a Dettman Oil Co. (Fonda)	UT	2,800	9-15-94
M & L Service; Loyal Dorr; Mark Courtney (Guthrie Center)	UT	1,000	8-30-95
Keith Owens and Howard Maurer (Wilton)	UT	3,100	1-01-96
Ronald Slocum; Tammy Lynn Determan (Marshall Co.)	SW	10,000	5-24-97
Sale-R-Villa Const., Inc. (Perry)	AQ	7,000	4-28-98
Larry Cope, Susan E. Cope, Bill VanPelt (Carlisle)	WW	1,500	5-05-98
Leland DeWitt (Louisa Co.)	AQ/SW	3,000	11-21-98
Otter Creek Station (Dubuque Co.)	WS	325	3-04-99
* Home Asbestos & Lead Abatement Services (Johnston)	AQ	1,150	6-15-99
* Orrie's Supper Club, Inc. (Hudson)	WS	390	6-01-99
Charlie's Supper Club (Algona)	WS	100	7-01-99
Hidden Valley Mobile Home Court (Washington Co.)	WS	200	7-26-99
Capitol Oil Co. (Oxford)	UT	6,560	10-09-99
* Hidden Valley Mobile Home Park (Washington)	WW	200	12-12-99
* Minifarm Acres, Inc. (Cedar Co.)	WS	375	1-29-99
Dorchester Supper Club (Dorchester)	WS	100	3-08-00
Plain Salvage Inc. (Sac City)	AQ/SW	10,000	5-12-00
Weber Construction, Inc. (Cascade)	AQ	4,000	5-26-00
Steve Friesth (Webster Co.)	AQ/SW	4,000	6-05-00
Country Hills Water Corporation (Peosta)	WS	500	6-12-00
Martin Marietta Materials, Inc. (Ames)	AQ	5,000	6-12-00
Don Casterline; Myron Casterline (Van Wert)	UT	2,000	6-14-00
* Rimade, Inc. (Manning)	SW/WW	1,000	8-01-00
R & R Ranch (Osceola)	WW	10,000	8-30-00

Robert Watson (Griswold)	UT	1,700	9-03-00
Coralville Lake Terrace Assoc. (Johnson Co.)	WS	1,500	9-05-00
Kathy's Korner (Dewar)	WS	500	9-06-00
Larrabee, City of	WS	250	9-11-00
John Smith d/b/a Four-Corners Tap (Lockridge)	AQ/SW	1,000	9-24-00
Osterdock Store (Guttenberg)	WS	500	10-16-00
Winter Mobile Home Park (Chickasaw Co.)	WS	2,500	11-19-00
Mt. Joy Mobile Home Park (Davenport)	WS	1,500	11-23-00
Lindhahl & Sons Salvage (Boone)	AQ/SW	10,000	11-29-00
American Legion - Swisher Post #671 (Swisher)	WS	500	12-25-00
Seven Ponds Park (Sperry)	WS	500	1-03-01
* R.V. Hopkins, Inc. (Davenport)	AQ	1,200	4-16-01
Country Stores of Carroll, Ltd. (Carroll)	UT	4,700	1-17-01
Pretty Women, Inc. d/b/a Beach Girls Bar (W. Des Moines)	WS	500	1-19-01
Exotic Attractions, Inc. d/b/a Foxy Lady (W. Des Moines)	WS	500	1-19-01
Mid River Marina (Swisher)	WS	250	2-03-01
R & K Smith Farms, L.L.C. (Hardin Co.)	WW/HC	2,000	2-27-01
Alice Hillhouse; Hillhouse Real Estate Corp. (Denison)	UT	3,000	2-28-01
Malvern, City of	WW	1,000	2-29-01
* Robert Simon (Dubuque Co.)	AQ/SW	1,600	3-02-01
# Neal Anthony d/b/a Anthony's Trucking (LeMars)	AFO	3,000	3-03-01
Michael Bauer (Davenport)	UT	5,100	3-13-01
* Michael Roberts (Page Co.)	AQ	525	3-15-01
* Lorene Logue (Lucas Co.)	AQ/SW	200	3-15-01
West Central Cooperative (Ralston)	WW	2,000	4-06-01
*#Roger Bockes, et. al. (Tama Co.)	AFO	2,750	4-15-01
Melsha Tap, Inc. (Swisher)	WS	300	5-06-01
Paul Riha d/b/a Riha Auto Sales (Vining)	UT	1,200	5-06-01
# Gary Stutzman (Washington Co.)	AFO	1,500	5-09-01
Casey's General Stores, Inc. (Aplington)	UT	2,500	5-11-01
Jefferson, City of	WW	5,000	5-11-01
Richard Thompson d/b/a/ Thompson Auto Parts (Story Co.)	WW/SW	1,000	5-11-01
Al Luchtel d/b/a K & D Painting, Ltd. (Carroll)	SW/HC	2,000	5-11-01
Iowa Skate U (Iowa Falls)	WS	500	5-11-01
Grace Community Church (North Liberty)	WS	500	5-14-01
* Edward Degeus (Britt)	AQ	1,000	7-01-01
* Top of Iowa Cooperative (Hanlontown)	AQ	500	9-01-01
Independence Mobile Home Park (Independence)	WS	800	-----
Deer Ridge Estates (Ottumwa)	WS	100	-----
Lawrence Korver d/b/a Korver Development (Orange City)	WW	5,000	-----
# DEBCO, Inc. (Crawford Co.)	AFO	3,000	-----
Max Dalhauser (West Bend)	UT	670	-----
Envirobate Management Services (Johnston)	AQ	3,000	-----
R T & T, Inc. (Bancroft)	UT	600	-----
Denny Wessels d/b/a Denny Wessels Transport (Bancroft)	UT	900	-----
G. Michael Traul (Ottumwa)	UT	860	-----
Dallas O'Neal; Linda O'Neal (Council Bluffs)	UT	750	-----
Onawa Country Club (Onawa)	WS	1,500	-----
Forest City Cow Palace and Chuck Wagon Café (Forest City)	WS	250	-----
TOTAL		156,505	

The following cases have been referred to the Attorney General:

Donald P. Ervin (Ft. Dodge)	SW	669	3-05-90
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Vernus Wunschel d/b/a Wunschel Oil (Ida Grove)	UT	300	1-12-92
Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	3,070	10-11-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	600	10-11-94
Trust Trucking Corp.; Jim and Brenda Huyser (Lovilia)	UT	840	11-01-94
Paul Underwood d/b/a Underwood Excavating (Cedar Rapids)	AQ	4,000	3-24-95

Oscar Hahn (Solon)	AQ/SW	2,000	8-29-95
Randy Ballard (Fayette Co.)	FP	2,000	5-30-95
ESCORP Associates Ltd.; Arnold Olson (Cedar Rapids)	AQ	10,000	7-09-95
Long Branch Tavern (Monmouth)	WS	100	5-01-96
Long Branch Tavern (Monmouth)	WS	6,400	10-28-96
Long Branch Tavern (Monmouth)	WS	200	3-18-97
Dean Williams d/b/a Williams Oil Co. (Stuart)	UT	4,800	
Don Grell d/b/a Dodger Enterprises (Ft. Dodge)	AQ	10,000	2-16-93
Robert Jeff White (Dallas Co.)	AQ/SW	10,000	7-14-97
Edward Bodensteiner (Des Moines)	UT	3,200	3-31-96
Wunschel Oil, et.al. (Battle Creek)	UT	4,400	12-23-96
Tire-Tech Environmental Systems, Inc. (Muscatine)	SW/WW	2,500	
James LaFollette d/b/a Jim's Tree Service; Kurt Douglas (Marion Co.)	AQ/SW	2,000	2-16-98
*Ken Frese (Keokuk Co.)	AQ/SW	175	1-09-97
Elery Fry; Allen Fry; Becky Sandeen (Monroe Co.)	SW	6,000	1-20-96
Patrick McCoy (Keokuk Co.)	AQ/SW	2,000	2-10-96
Russell Barkema d/b/a Barkema Construction (Wright Co.)	AQ/SW	1,000	3-31-98
Action Jack's Paintball Park (Polk Co.)	SW/FP	10,000	11-07-98
#Harold Unternahrer (Washington Co.)	AFO	700	5-01-99
Hofer's Danceland Ballroom (Walford)	WS	3,200	4-19-97
Hofer's Danceland Ballroom (Walford)	WS	100	4-23-99
Ray Stamper; Bryan Zenor (Polk Co.)	SW	2,000	12-12-98
Russell Zook d/b/a Haskin's Recycling (Washington Co.)	AQ/SW	5,000	12-19-98
Phillips Recycling; Jeff Phillips (Story Co.)	WW	1,800	3-06-99
Greg Morton; Brenda Hornyak (Decatur Co.)	SW/AQ	3,000	11-04-98
	/WW		
Jim Walker (Johnson Co.)	AQ/SW	3,000	2-14-99
Iowa Millenium Investors, LLC (Sumner)	UT	4,000	10-12-99
Daryl & Karen Hollingsworth d/b/a Medora Store(Indianola)	UT	10,000	
Peter Orth f/d/b/a Strauss Bros. Conoco (Burlington)	UT	9,400	1-31-00
Ralene Hawkins d/b/a R.J. Express Salvage & Demolition; Clara Lindstadt (Des Moines Co.)	AQ/SW	1,000	7-01-00
Jim Ledenbach d/b/a Paper Recovery Company (Cedar Rapids)	SW	5,000	1-23-00
Organic Technologies Corp.; Tim Danley; Ken Renfro (Warren Co.)	SW/WW	10,000	5-26-00
* Lester Holmes; Todd Holmes (Lucas County)	AQ	4,000	10-15-00
James Harter (Fairfield)	WW	1,800	1-29-00
# Rustad Farms, Inc. (Butler Co.)	AFO	3,000	10-06-00
Crestview Mobile Home Park (Ames)	WW	10,000	8-30-00
10 th Hole Food & Spirits (Calamus)	WS	1,000	3-14-00
TOTAL		166,254	

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
Frank Hulshizer (Benton Co.)	SW	500
American Coals Corporation - Site #5 (Bussey)	AQ/SW	10,000
Wunschel Oil, et.al. (Ida Grove)	UT	10,000
Titan Wheel International, Inc. (Walcott)	WW	10,000
Simonsen Industries, Inc. (Cherokee Co.)	WW	5,000
Dennis Malone & Joanne Malone (Morning Sun)	UT	600
Leonard C. Page (Adams Co.)	SW	3,000
Boyer Valley Company (Arion)	WW	8,000
Wilbur McNear; Gilbert Persinger (Smithland)	UT	2,500
Donald J. Foreman d/b/a D & R Feedlots (Woodbury Co.)	WW	3,000
Wilbur McNear d/b/a McNear Oil Co. (Charter Oak)	UT	2,000
Clarence, City of	WW	3,000
Dallas County Care Facility (Adel)	WW	2,500

Margaret and Gene Palmersheim d/b/a G & M Service Mart (Greeley)	UT	1,500
#Boomsma Egg Site #1; A.J. DeCoster (Wright Co.)	WW	1,000
Richard Sprague (Tripoli)	AQ/SW	5,000
Bellevue Golf Club, Inc. (Bellevue)	WS	300
Cliff's Place, Inc. (Waverly)	WS	1,500
Brittany Estates Addition (Manchester)	WS	4,000
Robert Frees; Elizabeth Mathes (Washington Co.)	SW	1,000
Biovance Technologies, Inc. (Oskaloosa)	AQ	4,000
Sac City, City of	WW	4,000
Pathway Christian School (Kalona)	WS	500
Wiese Corporation (Perry)	AQ	5,000
West Liberty, City of	WW	5,000
Robert Diehl (Clarke Co.)	WW/WS	5,000
Duane Hanson d/b/a Cedar Valley Tire Recycling (Allamakee Co.)	SW	5,000
# Bernadette Ryan (Delaware Co.)	AFO	3,000
Lonnie King (Marion Co.)	AQ/SW	1,600
West Union Cooperative Co. (West Union)	WW	10,000
Country Terrace Mobile Home Court (Boone)	WW	5,000
Country Terrace Mobile Home Court (Boone)	WS	5,000
Dayton, City of	WW	10,000
# Peter Bockenstedt (Dubuque Co.)	AFO	3,000
# Dan Gotto (Dubuque Co.)	AFO	3,000
# Matthew Daly (Dubuque Co.)	AFO	3,000
Westside Park for Mobile Homes (Burlington)	WW	7,000
Gerald and Judith Vens (Scott Co.)	FP	5,000
Affordable Asbestos Removal, Inc.; Jeffry Intlekofer (Ft. Madison)	AQ	10,000
# Eugene P. Reed, Ltd. (Henry Co.)	AFO	1,500
Julie Rowe d/b/a Jewell's Food & Spirits (Troy Mills)	WS	1,000
# Robert Fisher (Hamilton Co.)	AFO	3,000
Osceola, City of	WW	5,000
Rocky Knoll Mobile Home Park (Forest City)	WS	3,000
# Iowa Select Farms, L.P.; AG Waste Consultants (Hamilton Co.)	AFO	3,000
# Leonard Rayonds; Randy Schleusner (Hancock Co.)	AFO	3,000
Wendall Abkes (Butler Co.)	AQ/SW	3,000
Benefit Water District #2 (Boone Co.)	WS	2,500
Minsa Corporation (Red Oak)	WW	10,000
Dennis Seversson d/b/a Huxley Dry Cleaners (Huxley)	AQ	4,500
Bruening Rock Products, Inc. (Decorah)	WW	8,000
Minnesota Rubber Company (Mason City)	AQ	3,000
New Virginia Sanitary District (New Virginia)	WW	5,000
Meadowknolls Addition (Linn Co.)	WS	1,500
Bee Rite Tire Disposal; Jerry Yeomens (Marshall Co.)	SW	10,000
Hawkeye Leisure Trailers, Limited (Humboldt)	AQ	2,000
Caraustar Paperboard Co. d/b/a Tama Paperboard (Tama)	AQ	1,000
LT Tap (Waucoma)	WS	500
Iowa State University Heating Plant (Ames)	AQ	1,000
Iowa Air National Guard - 185 th Fighter Wing (Sioux City)	AQ	1,000
Minnesota Mining and Manufacturing d/b/a 3M (Knoxville)	AQ	1,000
Winter Mobile Home Park (New Hampton)	WS	1,000
Martin Marietta Material, Inc. (Ames)	AQ	5,000
Alliant Energy Corp. d/b/a Alliant Transportation (Williams)	AQ	10,000
# Leo Pieper (Guthrie Co.)	AFO	2,500
Bettendorf, City of	WW	1,000
Quality Mat Co., Inc. (Waterloo)	AQ	8,500
Ajinomoto USA (Eddyville)	AQ	4,000
Boondocks Truck Haven (Williams)	WS	2,750
# Dan Witt (Clinton Co.)	AFO	3,000
Shell Rock Products, Inc. (Milford)	AQ	10,000

Twin Anchors R.V. Resort, Inc. (Story Co.)	WW	5,000	
Kiefer Built, Inc. (Kanawha)	AQ	10,000	
AGP Grain Cooperative (Klemme)	AQ	5,000	
# Thomas and Jane Kronlage (Coggon)	AFO	3,000	
Kinderland, Inc. (Dubuque)	WS	1,500	
Brecht Enterprises, Inc. (Iowa Co.)	AQ/SW	4,000	
The Farmers Co-Operative Society d/b/a Wesley Coop	AQ	5,000	
Casey's General Stores, Inc. (Waukee)	UT	3,800	
Charles City, City of	WW	5,000	
All-States Quality Foods, L.P. (Charles City)	WW	10,000	
Freisen of Iowa, Inc. (Storm Lake)	AQ	10,000	
Krajicek, Inc. d/b/a Krajicek Brothers (Harrison Co.)	AQ	10,000	
Dodgen Industries d/b/a Cabinet Masters, Inc. (Humboldt)	AQ	6,000	
Linwood Mining & Minerals Co. (Davenport)	AQ	10,000	
Duane Crees (Muscatine Co.)	AQ/SW	1,160	
J.W. Ready Mix and Construction, Inc. (Ft. Dodge)	AQ	1,000	
James Nizzi d/b/a Alice's Spaghettiland (Clive)	WS	3,000	
Knox Corporation (Davenport)	UT	6,700	
McDonald Construction, Inc.; Dwight McDonald (Eldora)	WW	2,000	
R. Excavating, Inc.; Randy Golden (Pottawattamie Co.)	WW	10,000	
L & L Book Properties; Larry L. Book (Sioux City)	WW	8,000	
Braddyville, City of	WW	3,500	
Westbrooke Construction Co.; Speer and Lepic (Polk Co.)	WW	4,000	
Winter, Inc.; Julius Winter (Iowa Falls)	AQ/SW	500	
Sapp Development LLC; Todd Sapp (Sioux City)	WW	1,500	
Fred Konfrst d/b/a Fred's Trash Service (Mills Co.)	AQ/SW	5,000	
Randy Drey (Storm Lake)	AQ/SW	2,000	
John Saathoff (Grafton)	AQ	500	
Don Anderson; Brentwood L.L.C. (Polk Co.)	WW	8,000	
# Floyd Kroeze (Butler Co.)	AFO	3,000	
Sunnybrook Mobile Home Park (Polk Co.)	WW	5,000	
Kay Enterprises, Inc. (Janesville)	AQ	10,000	
Carter Lake, City of	SW	2,000	
Jefferson, City of	WW	5,000	-----
TOTAL		459,910	

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
Houghton, City of	SW	500
Sac County Golf and Country Club (Wall Lake)	WS	2,100
Agri Grain Marketing (Dubuque)	AQ	4,000
* Steven Reimers (Schaller)	AQ/SW	215
* Robert Simon (Dubuque Co.)	AQ/SW	100
# Emil Broers; David Rosendahl (Cerro Gordo Co.)	AFO	3,000
* Aaron Berry (Pottawattamie Co.) PAID IN FULL	AQ/SW	400
Featherlite, Inc. (Cresco)	AQ	5,000
Hitter's Sports Park (Cedar Rapids)	WS	300
* R.V. Hopkins, Inc. (Davenport)	AQ	500
Primghar Advancement Corp.	AQ	4,000
Primghar Fire Department; City of Primghar	AQ	1,000
* Michael Roberts (Page Co.)	AQ	75
* Vernon Kinsinger (Washington Co.) PAID IN FULL	AQ/SW	500
*#Roger Bockes, et. al. (Tama Co.)	AFO	250
# Brian Lauterbach (Alden)	AFO	50
The Barn (Sherrill)	WS	500
Country Air Mobile Court (Atkins)	WS	1,000
River Products Co., Inc. (Johnson Co.)	AQ/SW	500
* Steven Reimers (Schaller) PAID IN FULL	AQ/SW	135
TOTAL		24,125

The \$300 penalty assessed D/S Land Company, L.C. d/b/a The Outer Edge (Mason City) has been rescinded.

Name, Location, and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
10 th Hole Food & Spirits Calamus NEW	Drinking Water	Monitoring/Reporting – Bacteria, Nitrate	Order/Penalty	Referred	3/19/01
Affordable Asbestos Removal, Inc.; Jeffrey Intelkofer Iowa City (6)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Motion for Partial Summary Judgment	3/20/00 4/19/00 2/26/01
Affordable Asbestos Removal, Inc. Jeffrey Intelkofer Iowa City (6)	Air Quality	DNR Defendant	Defense	Petition Filed	12/28/00
Castenson, David; Kristi A. Castenson, Barbara June Cummins; Velma Castenson d/b/a B & D Farms Webster Co. (2)	Wastewater	DNR Defendant	Defense	Petition Filed Motion to Strike Answer Petitioner's Motion to Adjudicate Law Points State's Resistance	7/17/00 8/07/00 8/15/00 10/03/00 10/16/00
Crane, John & Frieda d/b/a Hillside Mobile Home Park Ames (5)	Wastewater	Discharge Limits	Order	Referred	2/19/01
Enviro Safe Air, Inc. Sioux City (3)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Trial Date Motion for Summary Judgment	10/18/99 03/17/00 05/15/01 02/27/01
Harter, James Brighton (6)	Wastewater	Stormwater – Operation Without Permit	Order/Penalty	Referred	11/20/00
Hawkins, Ralene d/b/a R.J. Express Salvage and Demolition Burlington (6)	Solid Waste	Illegal Disposal	Order/Penalty	Referred Motion for Judgment Hearing Order (\$1,000/Admin.)	4/17/00 1/16/01 2/05/01 2/26/01
Holnam Incorporated Mason City (2)	Air Quality	Excess Emissions	Referred to Attorney General	Referred	3/15/99
Huyser, James; Trust Trucking Lovilia (5)	Underground Tank	Site Assessment	Referred to Attorney General	Referred Petition Filed Dismissed for Lack of Service Bankruptcy Petition Filed	11/21/94 4/18/96 9/20/96 9/20/96
Indian Creek Corp. Jasper Co. (5)	Animal Feeding Operation	Failure to Retain; Freeboard Violations; Failure to Have Approved MMP	Referred to Attorney General	Referred Petition Filled Trial	4/17/00 9/27/00 10/10/01
Iowa Select Farms, L.P. Clarke Co. Sow Unit #20 Jernquist Nursery Clarke & Ringgold Co. (4) UPDATED	Animal Feeding Operation	Prohibited Discharge; Failure to Retain	Referred to Attorney General	Referred Petition Filed Consent Decree (\$12,000)	4/17/00 2/28/01 3/01/01
Larson, Daryl Jones Co. (1)	Animal Feeding Operation	Freeboard Cleanup Costs	Referred to Attorney General	Referred Petition Filed Answer	5/17/99 11/02/00 12/07/00
Ledenbach, Jim d/b/a Paper Recovery Cedar Rapids (1)	Solid Waste	Illegal Disposal	Order/Penalty	Referred	4/17/99
Lehigh Portland Cement Co. Mason City (2)	Air Quality	Construction Without Permit	Referred to Attorney General	Referred Petition Filed Trial Date	8/17/98 11/05/99 10/29/01
Mills County Landfill Assn. & Remonot County Landfill Assn.				Petition Filed Answer Filed	11/05/99 11/29/99

Mills Co. (4)	UPDATED	Solid Waste	DNR Defendant	Defense	Petitioner's Motion for Summary Judgment	6/15/00
					State's Resistance	7/19/00
					Hearing	8/17/00
					Trial Date	10/23/00
					Summary Judgment Granted	10/23/00
					State's Notice of Appeal	11/29/00
					Appeal Dismissed; Closed	3/14/01
Morgan, Ron d/b/a Action Jack's Paintball Park Polk Co. (5)		Solid Waste	Illegal Disposal	Order/Penalty	Referred	2/15/99
Nelson, Paul d/b/a Crestview Mobile Home Park Ames (5)		Wastewater	Discharge Limits	Order/Penalty	Referred	2/19/01
Organic Technologies; Tim Danley; Ken Renfrow; Mike Danley Warren Co. (5)		Solid Waste	Permit Violations	Referred to Attorney General	Referred Petition Filed Application for Temporary Injunction Temporary Injunction Trial Date Judgment	12/15/97 10/02/98 2/04/99 4/19/99 9/13/00 9/28/00
Organic Technologies; Tim Danley; Ken Renfrow Warren Co. (5)	UPDATED	Solid Waste Wastewater	Compliance Schedule; Cover Violations; Discharge Limits; Operation Violations	Order/Penalty	Referred Motion for Judgment Hearing Date Order Granting Judgment (\$10,000)	7/17/00 1/22/01 3/13/01 3/19/01
Orth, Peter J. f/d/b/a Strauss Bros. Conoco Burlington (6)		Underground Tank	Site Assessment; Remedial Action	Order/Penalty	Referred Petition Filed	3/20/00 8/01/00
Phillips, Jeff; Phillips Recycling Story Co. (5)		Wastewater	Stormwater; Operation Without Permit	Order/Penalty	Referred Petition Filed	8/16/99 9/12/00
Rustad, Arlyn; Rustad Farms, Inc. Northwood (2)		Animal Feeding Operation	Confinement – Feedlot; General Criteria	Order/Penalty	Referred	1/16/01
White, Robert Jeff White, Dave Dallas Center (5)		Air Quality; Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred Petition Filed Dismissed Without Prejudice Petition Against Dave White Filed Answer Filed Trial Order (Clean-Up and Injunction)	4/20/98 2/05/99 9/24/99 11/15/99 12/06/99 1/31/01 2/27/01
Wunschel Oil Co.; Vernus Wunschel and Jaquelyn Wunschel Battle Creek (3)		Underground Tank	Site Assessment	Referred to Attorney General	Referred Motion for Judgment Consent Decree (\$6,400/Admin.) Referred Petition Filed Defendant's Motion to Dismiss State's Resistance Denial of Defendant's Motion to Dismiss Motion for Partial Summary Judgment	1/17/95 8/28/96 12/13/96 3/30/98 9/01/00 9/08/00 9/19/00 11/07/00 2/16/01
Wunschel Oil Co.; Vernus Wunschel and Jaquelyn Wunschel Ida Grove (3)		Hazardous Condition	Site Access; Other	Referred to Attorney General	Referred Petition Filed Defendant's Motion to Dismiss State's Resistance State's Application for Temporary Injunction Hearing on Temporary Injunction Denial of Defendant's Motion to Dismiss Temporary Injunction Granted Motion for Summary Judgment	6/19/00 9/01/00 9/08/00 9/19/00 10/13/00 10/24/00 11/07/00 11/07/00 2/20/01
Zook, Russell d/b/a Haskins Recycling Ainsworth (6)		Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred Petition Filed	5/17/99 9/12/00

During the period March 1, 2001, through March 31, 2001, 1 report of wastewater by-passes was received. A general summary and count by field office is presented below. This does not include by-passes resulting from precipitation events.

Month	Total	Avg. Length (days)	Avg. Volume (MGD)	Sampling Required	Fish Kill
October	5(0)	1.4(0)	1.4(0)	4(0)	0(0)
November	1(0)	10	0.001	1(0)	0(0)
December	1(0)	1	.015	1	0(0)
January	5(0)	1.4(0)	.323	3	0(0)
February	2(0)	1	.00035	0	0(0)
March	10(0)	1.4	.4199	1	0(0)
April					
May					
June					
July					
August					
September					

(numbers in parentheses for same period last year)

Note: data not previously collected,
thus no data for the previous year

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
2	0	2	0	3	3

Mike Valde reviewed the monthly reports for the Commission.

INFORMATIONAL ONLY

PROPOSED RULE – CHAPTER 60 – WASTEWATER TREATMENT AND DISPOSAL

Mike Valde, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be provided with a copy of a proposed amendment to Chapter 60, Wastewater Treatment and Disposal. The proposed amendment will modify existing rules regulating storm water discharges and reflects one of the changes in Federal regulations adopted in December 1999 (commonly known as Phase 2 of the stormwater program). Other changes to the stormwater permit program will be promulgated at a later date to coincide with federal implementation dates.

The proposed amendment will allow facilities to qualify for exemptions from storm water permitting due to non-exposure to precipitation. The other major changes that will be needed, reducing the construction site permit threshold from five acres to one acre and the elimination of the less than 100,000 population exemption for municipal separate stormwater sewer systems (known as MS4s) would be considered more stringent than existing federal rules and could not be implemented before the effective date of Phase 2 rules due to state statute. Therefore, these changes will be addressed at a later date.

Mike Valde distributed a copy and explained the proposed amendment to the Commission. He said this would be brought before the Commission as a decision item next month.

INFORMATION ONLY

GENERAL DISCUSSION

Rita Venner asked Mike Valde if there had been a decision made on the Alaskan Rule in regard to the drainage districts.

Mike Valde said that the Alaskan Rule is a promulgate federal rule, which states until EPA approves a water quality standard the standard is not effective. The rulemaking regarding the drainage districts will come before the Commission at the May meeting.

Brief discussion followed.

Terry Townsend said that the May meeting will be the organizational meeting so the Commission will be electing the Chair, Vice Chair and Secretary for the following year.

Liz Christiansen distributed a copy of the FY2000 Goal Progress Report, which the Department is required to prepare. She said the bottom line is that progress toward the 50% waste reduction goal is only at 34%, which is down from 36%.

Terry Townsend thanked Rozanne King for her participation on the Commission.

NEXT MEETING DATES

May 21, 2001

ADJOURNMENT

<i>Motion was made by Rita Venner to adjourn. Seconded by James Braun. Motion carried unanimously.</i>
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With no further business to come before the Environmental Protection Commission, Chairman Townsend adjourned the meeting at 3:00 p.m., Monday, April 16 , 2001.

Jeffrey R. Vonk, Director

Terrance Townsend, Chair

Rita Venner, Secretary